

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

MONROE DIVISION

UNITED STATES OF AMERICA

CRIMINAL ACTION NO. 12-00118

VERSUS

JUDGE ROBERT G. JAMES

HORATIO BENTON

MAG. JUDGE KAREN L. HAYES

MEMORANDUM ORDER

On September 28, 2015, the Clerk of Court received a letter Motion for Prior Jail Credit [Doc. No. 42] from Defendant Horatio Benton (“Benton”). Benton moves the Court to run his federal sentence concurrently with the state offense which “occurred out of the same transaction.” *Id.*

The Court has no authority to grant Benton the relief he requests. Pursuant to 18 U.S.C. § 3585(b), the Attorney General, through the Bureau of Prisons (“BOP”), is charged with calculating a defendant’s credit for any time served in federal custody prior to sentencing. If a defendant wishes to challenge this calculation, he must, first, exhaust his available administrative remedies through the BOP before litigating in federal court. *See United States v. Wilson*, 503 U.S. 329, 335 (1992). Then the defendant may seek review in federal court by filing a petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2241, in the district in which he is incarcerated. *See Pack v. Yusuff*, 218 F.3d 448, 451 (5th Cir. 2000) (“A section 2241 petition on behalf of a sentenced prisoner attacks the manner in which a sentence is carried out or the prison authorities’ determination of its duration, and must be filed in the same district where the prisoner is incarcerated.”).

In this case, Benton has made no showing that he has exhausted his remedies through the BOP, and he is currently incarcerated in Bruceton Mills, West Virginia, which is not located in the Western District of Louisiana. Accordingly,

IT IS ORDERED that Benton's letter Motion for Prior Jail Credit [Doc. No. 42], which this Court construes as a petition for writ of habeas corpus under 28 U.S.C. § 2241, is DENIED and DISMISSED WITHOUT PREJUDICE to his right to re-file in the proper court after he has exhausted his administrative remedies.

MONROE, LOUISIANA, this 1st day of October, 2015.



ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE